

### **REMARKS**

Applicant thanks the Examiner for the thorough consideration given the present application. Claims 1-11 are currently being prosecuted. The Examiner is respectfully requested to reconsider her rejections in view of the amendment and remarks as set forth below.

#### **Interview**

Applicant notes with appreciation the interview conducted on January 9, 2006. At the interview, a sample of the claimed invention was shown to the Examiner. The outstanding rejections were discussed in regard to proposed claims. Various possible further changes to the claims were also discussed. The present amendment includes the claims that were discussed in the interview as further amended.

#### **Rejection Under 35 USC 112**

Claims 1-17 stand rejected under 35 USC 112, second paragraph, as being indefinite. The Examiner pointed out indefinite phrases which used the term "preferably." By way of the present Amendment, Applicant has removed this term in order to make the claims definite. Applicant has also removed "sort of" from claim 4 and "i.e." from claim 7. Accordingly, all of the claims are now considered to be definite.

Rejection Under 35 USC 103

Claims 1-7 stand rejected under 35 USC 103 as being obvious over Wittmann (U.S. Patent 5,667,737) in view of Sugiyama (U.S. Patent 4,798,010). This rejection is respectfully traversed.

The Examiner points out that Wittmann shows a shell and leg piece having a composite structure with two layers. The Examiner admits that Wittmann does not teach ribs forming a truss-like pattern. The Examiner relies on Sugiyama to show a mid-sole assembly made of two layers having an undulating shape.

First, Applicant points out that claim 1 describes that the ribs are in locations other than the sole of the footwear. Since the undulations of Sugiyama are in the sole, rather than in the lateral and upper portions, this reference does not apply to claim 1. Further, Applicant has amended claim 1 to include a wherein clause pointing out that the ribs increase the moment of inertia with respect to a neutral axis. Basis for this is found on page 4, lines 3 and 4 and page 5, lines 9 and 10 of the original application. In the Sugiyama reference, the undulating portions are made of two different materials so as to soften the impact on the feet of the person wearing the shoe. This differs from the present claimed invention where the moment of inertia is increased so that the ribs actually stiffen the boot. Thus, this is exactly opposite of the intent of Sugiyama. Accordingly, Applicant submits that claim 1 is not obvious over this combination of references.

Claims 2-7 depend from claim 1 and as such are also considered to be allowable. In addition, each of these claims recite other features that make these claims additionally allowable. Thus, claim 2 relates the specific material which is in contact with the foot. Claim 4 specifically defines the ribs as forming a truss-like pattern which is not shown in either of the references. Claim 7 specifically defines the surfaces of the layers as being uniform and smooth. Accordingly, Applicant submits that these claims are additionally allowable.

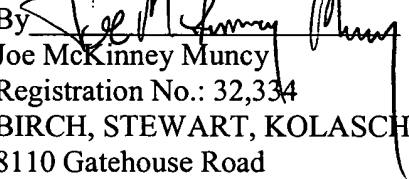
Applicants are also submitting new claims 8-11 which include further descriptions of the invention. Claim 8 separately now describes the leg piece which was previously found as part of claim 1. Claims 9 and 10 describe the specific material used for the two layers. These claims are supported by the specification at page 3, line 9 and page 3, lines 16-17. Claim 11 has also been added to point out that the ribs do not increase the thickness of the shell. Applicant submits that these new dependent claims are likewise allowable based on their dependency and also allowable based on their further features.

### Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

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Respectfully submitted,

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